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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/424,544	Applicant(s) INO ET AL.	
	Examiner Jeff Piziali	Art Unit 2673	

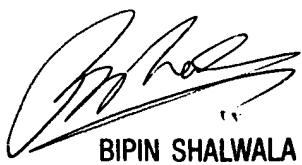
--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

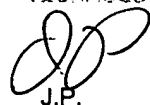
The Appeal Brief filed on 29 October 2004 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37 within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet and Interview Summary.


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J.P.
3 November 2005

Continuation of 9. Other (including any explanation in support of the above items):

The claims under appeal, the subject matter involved in the appeal, the appealed grounds of rejection, and the arguments in service of the appeal have been rendered unclear and indefinite by the Appeal Brief filed 29 October 2004.

The 'Status of Claims' section of the brief states, "appellant hereby appeals the final rejection of claims 3, 5-7, 11, 13-20, 23-29, 31, 37, and 43-48" (see Page 4 of the brief). Moreover, the 'Argument' section of the brief states, "Claims 3, 5, 7, 11, 13-20 and 23-24 stand or fall together" (see Page 8 of the brief). However, page 11 in the 'Argument' section of the brief contradictorily states, "While not conceding the propriety of these rejections, and in order to further the prosecution of the application, claims 3, 5, 7, 11, 13-20 and 23-24 attempts (sic) have been made within the above-noted Amendments After Final Rejection Under 37 C.F.R. 1.116 to cancel these claims without prejudice or disclaimer of their underlying subject matter, rendering the rejection moot as to these claims." The 'Claims Appendix' of the brief (which is meant to contain a copy of the claims involved in the appeal) goes on to include a recitation of claims 3, 5, 7, 11, 13-20 and 23-24 (see Pages 17-21 of the brief). As no arguments addressing the grounds of rejection have been presented anywhere in the brief, it is unclear whether or not claims 3, 5, 7, 11, 13-20 and 23-24 are even being appealed.

The 'Status of Claims' section of the brief includes an improper and extraneous prosecution history of the instant application, making it unclear what exact version of the claims is being appealed, and unclear wherefrom the status of claims is been identified. Similarly, the 'Status of Amendments' section of the brief includes an improper and extraneous Advisory Action prosecution history of the instant application.

The 'Summary of Claimed Subject Matter' section of the brief does not present a concise explanation of the subject matter defined in each appealed independent claim and each separately argued dependent claim. No claims whatsoever are anywhere identified or mentioned in this section.

The 'Related Proceedings Appendix' is missing altogether from the brief.

Although the examiner has attempted to be as thorough as possible, the lengthy appeal brief has not been checked to the extent necessary to determine the presence of all possible errors. Appellant's cooperation is requested in correcting any errors of which appellant may become aware in the brief.

The grounds of this Notification of Non-Compliant Appeal Brief were discussed during a 3 November 2005 consultation with Training Quality Assurance Specialist John Peng.